

**MEMORANDUM OF UNDERSTANDING**

between the

**City of Hollister**

and the

**CONFIDENTIAL UNIT**

July 1<sup>st</sup>, 2013 - June 30, 2015

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DUPLICATE OF ORIGINAL  
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*City of Hollister – Confidential Employee Unit M.O.U.: 07-01-2013 to 06-30-2015*

**1. PREAMBLE**

This Memorandum of Understanding is entered into by the City of Hollister, hereinafter referred to as "City", and the Confidential Employees Unit, hereinafter referred to as "Unit". This Memorandum of Understanding hereinafter referred to as "M.O.U.", is subject to Sections 3500-3510 of the Government Code of the State of California, otherwise known as the Meyers-Milias-Brown Act.

**2. RECOGNITION**

Pursuant to Section 3500-3510 of the Government Code, the City certifies Unrepresented Unit as the recognized majority representative for all regular career, full-time employees in the Unit. The Unit includes:

- Accountant
- Accounting Manager
- Administrative Analyst
- Executive Assistant to the City Manager
- Human Resources Manager
- Human Resources Analyst
- Human Resources Technician II
- Information System Analyst
- Information Systems Technician
- Legal Administrative Assistant
- Senior Support Services Assistant (Confidential)
- Support Services Assistant I/II (Confidential)

**3. NO ABROGATION OF RIGHTS**

This M.O.U. does not modify any City Council rights.

**4. SALARY ADJUSTMENT**

1. The City shall apply a one percent (1.0%) across-the-board increase to the base salary of all unit classifications effective the first full pay period of October 2013, as a cost offset for employees increasing their retirement contribution rate participation.
2. Effective upon execution of the MOU, as part of a joint savings arrangement between the City and the Confidential Unit members for health care coverage, the City shall provide a one-time retention incentive payment in the amount of one thousand dollars (\$1000.00) cash to each unit employee. Said payment to be issued no later than the first full pay period after the execution of the MOU.

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3. The City shall apply a two percent (2.0%) across-the-board increase to the base salary of all unit classifications effective the first full pay period of October 2014, as further part of the joint savings arrangement between the City and the Unit for health care coverage.

**5. HOLIDAYS**

All Confidential Unit Members are entitled to 10.5 paid holidays per year. These holidays are as follows:

January 1	New Year's Day
Third Monday in January	Martin Luther King, Jr. Day
Third Monday in February	Presidents Day
Last Monday in May	Memorial Day
July 4 <sup>th</sup>	Independence Day
First Monday in September	Labor Day
November 11 <sup>th</sup>	Veterans Day
Fourth Thursday in November	Thanksgiving Day
Fourth Friday in November	Day after Thanksgiving
December 24 <sup>th</sup> (1/2 day)	Christmas Eve
December 25 <sup>th</sup>	Christmas Day

**6. VACATION**

**A. Entitlement**

All Confidential unit member employees are entitled to accrue vacation based on B. Accrual below. Employees may take accrued vacation after the completion of six (6) months of service.

**B. Accrual**

<b>Years of Service</b>	<b>Annual Vacation Accrual</b>
<i>1st through completion of 3rd</i>	<i>10 days</i>
<i>4th through completion of 7th</i>	<i>15 days</i>
<i>8th through completion of 15th</i>	<i>20 days</i>
<i>16th through completion of 20th</i>	<i>22 days</i>
<i>Beginning of 21st year</i>	<i>25 days</i>

**C. Maximum Accrual**

Confidential unit members may only accumulate a maximum of thirty-five (35) working days (280 hours) of vacation without the authorization of the City Manager. Accumulated vacation time of more than thirty-five days (280 hours) requires prior written authorization by the City Manager and must be used prior to the end of the calendar year or it will be lost.

Any Confidential Unit Employee who either terminates or retires from the City shall be compensated for a maximum of two-hundred forty (240) hours at the employee's hourly rate of pay at the time of retirement from City service.

**D. Floating Holidays**

All Eligible unit members shall receive two (2) floating holidays for the fiscal year for their use beginning on July 1 of each fiscal year..

**E. Vacation Conversion to Cash**

Confidential Unit Members may cash out vacation leave hours in the increments of ten (10) hours as long as it has been budgeted and must have the City Manager's Approval. Compensation for vacation leave cashed out will be made at the employee's rate of pay at the time of cash out. Request for payment of vacation time shall be made in writing to the Department of Administrative Services at least thirty (30) days in advance.

Payments of cashed-out vacation leave will be made on the first full pay day which follows the end of the thirty (30) day advance. This payment will be made in the regular payroll check issued for that pay period.

**7. SICK LEAVE**

**A. Entitlement**

Sick leave shall be accrued at a rate of twelve (12) days per year (8 hours per month).

**B. Accrual**

Unused Sick Leave may be accrued without limit.

**C. Sick Leave Conversion to Cash**

All Confidential Unit Members employees may be compensated for a percentage of accrued, unused sick leave to cash at death or retirement from City employment. The provisions for this policy are as follows:

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1. Confidential Unit Members may not "cash out" or be compensated for any of the first 240 hours of sick leave accrued.
2. Any Confidential Unit Member having completed 10 years of continuous service with the City and who retires from City service, will be compensated for twenty-five percent (25%) of accrued, unused sick leave in excess of 240 hours at the employee's hourly rate of pay at the time of retirement from City service.
3. The surviving spouse or State-registered Domestic Partner, beneficiary(s), dependent(s), or estate of any current employee of this unit who has completed 10 years of continuous service with the City and dies while employed by the City prior to retirement, will be compensated for fifty percent (50%) of accrued, unused sick leave in excess of 240 hours at the employee's hourly rate of pay at the time of death.
4. Any Confidential Unit Members having completed 10 years of continuous service with the City and having an unused sick leave accrual balance exceeding 500 hours may, at their option, "cash out" up to a maximum of 96 hours (12 days) of unused sick leave annually as long as the "cashed out" hours do not diminish the unused sick leave accrual balance to an amount less than 500 hours.
5. Compensation for unused, accrued sick leave will be made at the employee's rate of pay at the time of "cash out". Requests for payment of unused sick leave as described herein, shall be made in writing to the Administrative Services Department at least 30 days in advance of June 1st and December 1st of each year.
6. Payments of "cashed out" unused sick leave will be made on the first pay day which follows June 1st and December 1st of each year.

**8. ADMINISTRATIVE LEAVE**

All Confidential Unit Members shall receive eighty (80) hours Administrative Leave on July 1<sup>st</sup> of each fiscal year. The terms for use of Administrative Leave are as follows:

- A. Administrative Leave credit will be accrued at the rate of 3.08 hours per pay period.
- B. The entire eighty (80) hours of Administrative leave will be advanced and be available for use on July 1 of each fiscal year.
- C. Leave usage must be identified and recorded on the official time card for the period in which leave was taken.



- D. Residual Administrative Leave not utilized during the fiscal year may not be carried over into a subsequent year unless prior approval by the City Manager. Administrative Leave shall not be cumulative and shall not be converted into monetary compensation, except upon termination or retirement.
- E. In the event an eligible employee terminated during the year, unused accrued Administrative Leave shall be paid out in the same manner as unused vacation. If leave has been taken beyond that which is accrued, the employee must pay back all excess leave taken.
- F. For eligible employees hired during the year, prorated leave credit will be accrued from the date of hire.

## **9. INSURANCE**

### **A. Description**

The City of Hollister Flexible Benefits Plan/Cafeteria Plan (hereinafter "Plan") is available to full-time employees (hereinafter "Employees"). There will be three participation levels as referenced under Section [E]. Optional benefits are listed below. Once an election is made, it will remain in force until the next open enrollment period. A Third Party Administrator (T.P.A.) fee will be paid by the employees that participate in the Plan.

### **B. Health Insurance Options**

The City shall provide employees with the choice of participating in either the Public Employees' Medical and Hospital Care Act (PEMHCA) program or the Anthem Blue Cross HMO program offered by CALPERS.

### **C. IRS Code Section 125 Flexible Benefits/Cafeteria Plan**

1. The City shall provide for unit members an IRS Code Section 125 Flexible Benefits/Cafeteria Plan in accordance with all applicable state and federal laws and regulations.
2. The City shall contribute towards the PEMHCA or Anthem Blue Cross HMO medical, dental and vision care plan amounts allocated in accordance with the City's IRS Code Section 125 Flexible Benefits/Cafeteria Plan as specified below.
3. The City shall allocate specified amounts of "Flex Credits" to the employee's flexible benefit account. These amounts shall consist of the following:

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- a. An amount up to and not to exceed the City's contribution towards medical insurance, based upon either the Anthem Blue Cross HMO or PEMHCA's PERS Choice medical plans, whichever plan is greater for Calendar year 2014 and 2015. For Calendar year 2016, it will be whichever plan is the lessor of the two plans. The required contribution for employees electing dependent coverage in accordance with Section [E] below shall be excluded from this total.
  - b. An amount equivalent to the City's contribution towards dental insurance. The required contribution for employees electing dependent coverage in accordance with Section [E] below shall be excluded from this total.
  - c. An amount equivalent to the City's contribution towards vision insurance. The required contribution for employees electing dependent coverage in accordance with Section [E] below shall be excluded from this total.
4. In the event that surplus Flex Credits are available, any Confidential Unit Employee shall have the option to allocate such Flex Credits to one or more of the following:
    - a. Confidential Unit Employees' Flexible Spending Account.
    - b. Roth Individual Retirement Account (IRA).
    - c. ICMA or City-authorized 457 Deferred Compensation Plan.

If a Unit Employee's residual "Flex Credits" are reduced, the employee will have the responsibility to pay the contribution no longer covered by the Surplus Flex Credits.

5. Employees who waive either dental and/or vision coverage shall have the option to apply available flex credits towards the cost of any optional premium listed in the respective sections below. The cost of the optional premium not covered by available flex credits shall remain the employee's responsibility.
6. Employees who elect to waive any or all health coverage shall be subject to the terms and provisions described under Section [J] below.

**D. Terms for Health Care Participation**

Participation and coverage in the medical, dental, and vision care plans shall be in accordance with the terms and conditions of the insurance carrier.

**E. Health Care Contributions**

**1. Employee-only Premium**

The City shall contribute towards the medical, dental, and vision insurance plans an amount equal to the employee-only premium at the time of adoption of this M.O.U. for each member of the unit for the term of this M.O.U. The employee-only premium for medical insurance shall be based on the higher premium for Calendar year 2014 and 2015 and the lower of the two for Calendar year 2016 of either PEMHCA's PERS Choice or Anthem Blue Cross HMO in accordance with Section [C] above.

**2. Employee Option for Dependent Coverage**

For those employees who elect the option for dependent coverage for medical, dental, and vision insurance plans, the City shall contribute monthly amounts toward such dependent coverage based upon the higher premium for Calendar year 2014 and 2015 and the lower of the two for Calendar year 2016 of either PEMHCA's PERS Choice or Anthem Blue Cross HMO in accordance with Section [C] above, so that the employee pays no more than the following:

<i>Medical - One Dependent</i>	<i>\$ 32.55</i>
<i>Medical - Family</i>	<i>\$ 57.54</i>
<i>Dental - One Dependent</i>	<i>\$ 8.69</i>
<i>Dental - Family</i>	<i>\$ 19.39</i>
<i>Vision - One Dependent</i>	<i>\$ 29.93</i>
<i>Vision - Family</i>	<i>\$ 29.93</i>

**F. Vision Insurance**

The City shall provide a vision care insurance plan which is available to eligible unit members and qualified dependents during the term of this M.O.U.

The City shall offer vision care insurance for employees and qualified dependents as a pre-tax flexible benefit option. Participation and coverage shall be in accordance with the terms and conditions of the insurance carrier.

**G. Dental Insurance**

The City shall offer dental care insurance for employees and qualified dependents as a pre-tax flexible benefit option. Participation and coverage shall be in accordance with the terms and conditions of the insurance carrier.

**H. Life Insurance**

The City shall provide term life insurance in the amount equal to \$100,000 for each member of the unit for the term of this M.O.U. Additional term life insurance may be purchased by the employee in increments of \$10,000 up to a total of \$250,000.

**I. Long Term Disability Insurance**

The City agrees to provide to all employees within this unit at City cost a Supplemental Long Term Disability Plan, coordinated with other existing benefits to provide no more than a thirty (30) day exclusion or elimination period; no less than a one year benefit for accident or illness; and a minimum scheduled benefit of sixty-six percent (66%) or two-thirds (2/3) of gross salary to a maximum of \$3,500.00 per month for the term of this M.O.U.. The City in its sole discretion shall select the Supplemental Long Term Disability Plan carrier that meets these requirements.

**J. Health Insurance Waiver Option**

1. Effective January 1, 2014, employees within this bargaining unit who elect not to participate in the City's health care insurance program will be compensated in an amount as follows:

\$535	Employee Only
\$1,075	Employee plus one
\$1,380	Employee plus family

The compensation will be based on the employer's contribution towards the premiums for the City's health plan at the level in which the employee is eligible to participate (employee only, employee plus one dependent, employee plus two or more dependents) at the time of waiving City insurance coverage in accordance with Section [3] below. This cash amount will be paid as part of the employee's bi-weekly payroll.

2. Employees within this bargaining unit shall be eligible to elect not to participate in the City's health care program only after participating under the same level of the City's health care insurance plan for a minimum period of one year immediately preceding the election.
3. Employees within this bargaining unit electing not to participate in the City's health care insurance program must annually provide proof of medical insurance coverage by an outside provider in order to maintain payment under this waiver option.

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4. For employees who elect not to participate in the group medical coverage offered by the City, the City will provide dental and vision coverage for the employee and his/her dependents at no cost to the employee.
5. In addition to the coverage options specified under Article 7. Insurance of the Memorandum of Understanding between the City of Hollister and Confidential Unit members, the following optional health benefits shall be available to the employees of this bargaining unit.

**K. Optional Health Benefits**

Employees within this unit that have elected to participate in a City-offered medical plan can also elect to participate in the optional benefits. If the employee has any surplus flex credits after making all elections required to participate in the medical insurance, the employee can use that surplus toward optional qualified insurance benefits or one or both of the pre-tax spending accounts. Employees that wish to participate in the optional benefits plan, but do not have any surplus credits, can elect to have a pre-tax payroll deduction in an amount to cover the cost of their elections.

Employees may pay the premiums for the following benefits on a voluntary basis:

- Medical Insurance
- Dental Insurance
- Vision Insurance
- Group Term Insurance up to \$50,000 for Employees only
- Accidental Death and Dismemberment Insurance
- Short Term Disability
- Cancer Insurance
- Supplemental Health Insurance
- Vision or Dental Insurance
- Accidental Only Insurance
- Intensive Care Insurance

**L. Flexible Spending Accounts (FSA's)**

The City agrees to offer a pre-tax dependent care reimbursement account up to the maximum reimbursement allowed by law to be funded by employee.

The City agrees to offer a pre-tax medical reimbursement account, up to two thousand five hundred dollars (\$2,500) per year per employee.

**M. Life Insurance**

The City shall offer a voluntary supplemental life insurance plan through the flexible benefits plan for pre-tax contributions by the employees. Participation and coverage shall be in accordance with the terms and conditions of the insurance carrier. Employees may also elect pre-tax payroll deductions to support other City sponsored voluntary supplemental insurance benefits.

**N. Miscellaneous**

The City of Hollister does not allow the employee to take the surplus credits in taxable cash.

For employees who elect not to participate in the group medical coverage offered by the City, the City will provide dental and vision coverage for the employee and his/her dependents at no cost to the employee.

**10. RETIREMENT**

**A. Contribution**

**Tier 1**

- a. Effective the first full pay period after the execution of the MOU, and the City's subsequent adoption of the Resolution changing the CalPERS Retirement Employee Contribution Rate, all unit employees under the Miscellaneous CalPERS "2.5% @ age 55" Retirement Benefit Plan shall pay eight percent (8%) of their Compensation as part of the Employees' contribution.

**Tier 2**

- b. Effective the first full pay period after the execution of the MOU, and the City's subsequent adoption of the Resolution changing the CalPERS Retirement Employee Contribution Rate, all unit employees under the Miscellaneous CalPERS "2% @ age 60" Retirement Benefit Plan shall pay seven percent (7%) of their Compensation as part of the Employees' contribution .

**Tier 3**

- c. Effective on or after January 1, 2013, all new employees hired on or after January 1, 2013, and who are defined as a "new member" under the Public Employee Pension Reform Act of 2013 (PEPRA), AB 340 shall pay the employee contribution rate as established by State of California law.

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**B. 1959 PERS Survivor Death Benefit**

The City shall provide the PERS Section 21574 "Fourth Level 1959 Survivor Death Benefit" for all eligible unit members for the term of this contract. The City shall pay the employer rate contribution. The employee shall pay the member rate contribution.

**C. One-Year Final Compensation Benefit**

The City shall provide the PERS Section 20042 "One Year Final Compensation" benefit for eligible unit members.

All new employees hired on or after January 1, 2013, and who are defined as a "new Member" under PEPR, are subject to the new State Formulas, Final Compensation Period, and Contribution requirements as established by the PEPR.

**11. PROFESSIONAL DEVELOPMENT INCENTIVE PROGRAM**

Employees who have successfully completed probation shall be eligible to receive a one-time professional development incentive for obtaining certificates or degrees received after the date of this M.O.U. A professional development incentive shall not be awarded if the certification or degree is a minimum requirement for their position.

The certificate must relate to the employee's current position or future lateral or promotional opportunities with the General Employees Unit, Mid-Management Association or the unrepresented units of Confidential Employees and Executive Management. Vocational Training, for purposes of this section, is defined as a minimum of 100 hours of specific training in a career field which results in a certificate of completion. The minimum one hundred (100) hours shall be documented classroom time or in the case of a correspondence program identified as the average length of time required to complete the program certification as documented by the certifying agency or institution. Only one (1) professional development incentive per calendar year can be received by an employee. If an employee receives a Ph.D., Master's degree or Bachelor's degree in a calendar year, the employee may also receive one (1) additional professional development incentive for a certificate earned in the same calendar year.

**A. Professional Certificates - \$2,500.00 Lump Sum:**

- Professional Engineer Registration
- Professional Land Surveyor Registration
- Certified Public Accountant
- Engineer-In-Training
- Land Surveyor-In-Training
- American Institute of Certified Planners

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- Paralegal Certificate
- Grade 5 Water Treatment Operator or Water Distribution Operator
- Grade 5 Waste Water Treatment Operator
- QSP
- QSD

**B. College Degrees and Certificates - \$2,500.00 Lump Sum**

- Ph.D.
- Master's Degree
- Bachelor's Degree
- Associate's Degree

**C. Technical Certificates - \$2,000.00 Lump Sum:**

- Grade 4 Water Treatment Operator or Water Distribution Operator
- Grade 3 Water Treatment Operator or Water Distribution Operator
- Grade 2 Water Treatment Operator or Water Distribution Operator
- Grade 1 Water Treatment Operator or Water Distribution Operator
- Grade 4 Waste Water Treatment Operator
- Grade 3 Waste Water Treatment Operator
- Grade 2 Waste Water Treatment Operator
- Grade 1 Waste Water Treatment Operator
- I.C.B.O. Certificates
- Public Works Inspector – NICET
- Cross Connection Control Specialist Certification
- Certified Arborist

**D. Vocational Certificates of Completion:**

**Examples:**

- A(+) Certification (Computer Hardware, Software & Networking)
- Microsoft Certified Systems Engineer
- Cisco Certified Network Associates
- Operation Of Wastewater Treatment Plants Program administered by California State University, Sacramento Regional and Continuing Education Program
- Title 29 CFR 1910.120(q) - 24 Hour Hazardous Materials (Hazmat) Technician Level III Certification

The amount of the incentive for any Vocational Certificate of Completion shall be based on the following number of hours of course work:



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<b>Minimum Hours For Vocational Certificate</b>	<b><u>Amount</u></b>
<i>100</i>	<i>\$ 1,500.00</i>
<i>80</i>	<i>\$ 1,200.00</i>
<i>60</i>	<i>\$ 900.00</i>
<i>40</i>	<i>\$ 600.00</i>
<i>20</i>	<i>\$ 300.00</i>

**E. Technical Certificates - \$1,000.00 Lump Sum:**

- Chemical Applicator
- Licensed Tree Trimmer
- Automotive Service Technician (A.S.E.)

**F. Additional Eligibility Criteria**

Additional licenses and certificates eligible for these professional development incentives, not listed in this Article, may be reviewed and approved by the Department Head in accordance with the following criteria:

- The license or certificate submitted for consideration must directly relate to the employee's current position or future lateral or promotional opportunities in accordance with the provisions of this section.
- The employee earning the license or certificate shall be subject to duties and assignments commensurate with the level of proficiency attained under the City's Professional Development Incentive Program.
- After the effective date of this M.O.U., all such requests for consideration for eligibility for such license and certificate incentives shall be submitted to the Department Head for review, with final approval by the City Manager at his/her sole discretion. The City Manager's determination is not subject to appeal.

The process for receiving a professional development incentive under this program shall be:

- Prior to beginning any class, program, seminar or study toward a desired certificate or degree, the employee must submit a request to his/her department head for consideration and approval of bonus award. Qualifying classes, programs, seminars or study toward a desired certificate or degree shall not be denied.
- If prior approval is not obtained, the class, program, seminar or study toward a desired certificate or degree shall not fall within the scope of this Professional Development Incentive Program.

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- Upon obtaining a copy of the certificate or degree, payment will be processed for the specified incentive. Professional development incentives shall not be granted prior to receiving a copy of the degree or certificate.

The following are not eligible for consideration under this Section:

- Any driver's licenses
- Certificates, licenses, or degrees required for the position the employee holds
- Certificates, licenses, or degrees earned at the expense of the City including City sponsored training programs and consortium training programs except for approved tuition reimbursement pursuant to Section 8.10 (D) and (E) of the City of Hollister Personnel Rules & Regulations for Associate degrees, Bachelor's degrees, Master's degrees, and Ph.D. degrees.

**12. TUITION REIMBURSEMENT**

The City will provide for tuition reimbursement in accordance with provision of the current Personnel System Rules and Regulations. In order to be eligible for this reimbursement the employee must obtain prior approval for the course from both the department head and the City Manager.

**13. DEFERRED COMPENSATION PLAN**

The City shall continue to provide a voluntary Deferred Compensation Plan for all employees of this unit for the term of this M.O.U.

**14. BILINGUAL ALLOWANCE**

Employees who perform technical bilingual skills (reading, writing, translation) and who successfully pass a City-administered proficiency test shall receive an allowance of one hundred twenty-five dollars (\$125.00) per month.

**15. DRUG FREE WORKPLACE POLICY**

The City's Drug Free Workplace Policy, City Personnel Rule 2.05, adopted by Resolution 92-116 (August 3, 1992), is incorporated by reference into this M.O.U.

**16. MILEAGE REIMBURSEMENT**

The City shall reimburse all eligible unit members for mileage driven in their personal vehicles while conducting City Business at the rate specified by the Internal Revenue Service. Claims for such reimbursement must be submitted on the proper City form and approved by the city before payment can be made.

**17. JURY DUTY AND SUBPOENAED WITNESS**

Any eligible employee of this unit shall be allowed to take leave from his/her City Duties without loss of wages, leave time or other benefits for the purpose of responding to jury selection or serving on a jury for which he/she has been selected, subject to the limitation that an employee receive paid leave for jury duty not more than once per calendar year. In the case of serving on a jury more than one time during a year, the employee has the option of using leave time to mitigate loss of pay. No employee shall suffer loss of wages or other benefits responding to a subpoena to testify in court on behalf of the City.

**18. LONGEVITY PAY**

A longevity bonus shall be paid to employees of this unit who complete the following specified consecutive years of service after the effective date of this M.O.U.:

<b>NUMBER OF CONSECUTIVE YEARS</b>	<b>LONGEVITY BONUS</b>
<i>10 - 14 Years</i>	<i>Three Percent (3.0%) of Base Salary</i>
<i>15 - 19 Years</i>	<i>Six Percent (6.0%) of Base Salary</i>
<i>20 or more Years</i>	<i>Nine Percent (9.0%) of Base Salary</i>

**19. LAND SURVEYOR LICENSE CERTIFICATION**

All employees of this unit who possess and maintain a valid California Land Surveyor License shall receive Annual Incentive Pay of five percent (5%) of base salary, payable as part of the employee's bi-weekly payroll.

**20. COMPUTER LOAN PROGRAM**

Confidential Employees shall be eligible to purchase computer equipment through the City. Under this program, the City shall offer a one-percent (1%) loan to Confidential Employees who purchase a computer, printer, scanner, and/or any directly-associated computer hardware/software package. All Confidential Employees who participate in this program must pay back the loan in full either directly or through payroll deductions within one year from the date of the loan. Confidential Employees shall make twelve equal payments payable once per month.

Confidential Employees shall be eligible for a subsequent loan contingent upon the full balance of the previous loan paid off in full. Employees electing to participate in this program shall specify in writing their agreement to allow withholding of any unpaid balance through payroll deductions in the event the employee leaves City service or expires.

The computer equipment shall remain the property of the Confidential Employee at all times after purchase.

**21. TELEPHONE STIPEND**

The City will pay a cell phone allowance of \$40 per month to Confidential Employees. Employees receiving this allowance shall keep the phone in service at all assigned times and shall maintain the phone in proper working order at the employee's expense. No employee will be allowed the Cell Phone Allowance if they also maintain a City provided Cell Phone. City has no financial responsibility for lost or damages cell phones.

**22. NOTARY PUBLIC COMMISSION PAY**

Any Confidential Unit Employee who possess and maintains a Notary Public Commission shall receive an allowance of \$125.00 per month. Employees who receive Notary Public Commission Pay shall remain subject to the needs and requirements of the City.

**23. ACCOUNTING MANAGER – CERTIFIED PUBLIC ACCOUNTANT LICENSE CERTIFICATION PAY**

In accordance with the finance, budgeting, accounting requirements of the City and pursuant to the licensing requirements of the State of California Board of Accountancy, the position of Accounting Manager shall be entitled to Certification Pay in the amount of Five-Percent of salary based upon the Accounting Manager obtaining of and maintaining a California Certified Public Accountant License.

**24. SENIOR SUPPORT SERVICES ASSISTANT (CONFIDENTIAL) – PARITY ADJUSTMENT**

In accordance with the City of Hollister's Salary Schedule, the salary schedule for the position of Senior Support Services Assistant: Confidential shall be realigned in order to establish parity with the classification of Senior Support Services Assistant. This realignment shall be subject to any salary adjustments and/or Furlough provisions as determined and mandated by the City.

**25. WORKING OUT OF CLASSIFICATION ASSIGNMENT**

Unit employees assigned by management on a Personnel Action Form (P.A.F.) shall be compensated within the salary range for which the assignment is made, but in no case less than five percent (5%) subject to the following:

1. The position must be vacant and budgeted.
2. Must be assigned by Management.

## **26. FLEXIBLE WORK SCHEDULE**

Eligible unit members may work flexible work schedules (i.e. 4/10, 9/80) when feasible. It is not the intention of the City to reduce the number of hours that City services are available to the public. It is agreed that implementation of flexible work schedules shall be evaluated on a work unit basis, and will only be approved in those units where flexible work schedules can be implemented without reducing service levels and cost effectiveness.

## **27. PERSONNEL SYSTEM RULES AND REGULATIONS**

This M.O.U. sets forth certain benefits and working conditions for employees in the Unit. Other rules, regulations, policies, and general working conditions governing employment for employees covered by this M.O.U. are set forth in the Personnel System Rules and Regulations of the City except that the discipline proposed or imposed on employees within this unit shall be subject to the procedures specified in Exhibit [A] entitled Section 12. Disciplinary Procedures, which is incorporated herein by this reference. If during the term of this M.O.U. the City desires to amend the Personnel System Rules and Regulations, the City shall give notice to the Unit of the proposed changes. Representatives of the City and Unit shall meet in a timely manner. Hours, wages, and general working conditions contained in the Personnel System Rules and Regulations are the proper subjects of the grievance procedure.

The City intends to revise Personnel Rules and Regulations in 2014 at which time the City will consider incorporating a Violence in the Workplace Prevention Policy. When the revisions to the Rules and Regulations are discussed with all employee associations, City will consider Unit's requests relating to that policy.

## **28. TERM OF AGREEMENT**

The term of this M.O.U. shall commence on July 1<sup>st</sup>, 2013 and shall expire June 30, 2015, unless otherwise agreed to by both parties. It is also agreed to by both parties to initiate the meet and confer process in a timely fashion, exchanging written proposals at least thirty (30) days prior to the termination of this agreement. An extension of the term of this agreement on a month to month basis may be made by mutual agreement of the parties.

The effective date of this Memorandum of Understanding is the date on which the City Council takes action in an open and public meeting to ratify and approve this M.O.U.

(Last Updated on 12-9-15: BEM)

*City of Hollister – Confidential Employee Unit M.O.U.: 07-01-2013 to 06-30-2015*

The above constitutes a full and complete agreement between the parties on all matters within the scope of representation.

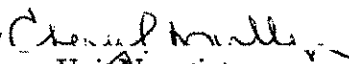
**CITY OF HOLLISTER**

**HOLLISTER CONFIDENTIAL  
EMPLOYEE UNIT**

Dated *Dec 16, 2013*

Dated *12/16/2013*

By   
City Manager

By   
Unit Negotiators

By   
City Negotiators

By  
Unit Negotiators

By  
City Negotiators

By  
Unit Negotiators

By  
City Negotiators

By  
Unit Negotiators

## **EXHIBIT [A]**

### **SECTION 12. DISCIPLINARY PROCEDURE**

#### **Section 12.01 General**

- A. The expected standard for employees of the City shall be to render the best possible service to the public, to reflect credit upon the City service, and to serve the public interest. The tenure of every employee shall be conditioned on good behavior and satisfactory performance of duties. Disciplinary actions are intended to be corrective and progressive in nature with the objective of obtaining compliance with rules, orders, procedures, standards of conduct and expected job performance.
- B. The procedures set forth in this section shall not apply to probationary employees who are rejected during probation, or to any employee serving in a seasonal or temporary appointment. These procedures shall not apply to a reduction in force, or a reduction in pay which is part of a reclassification action or reorganization approved by the City Council.
- C. The City Manager may take disciplinary action based upon a Department Head recommendation or initiate such action based upon his/her own authority. The City Manager may delegate the responsibility to take disciplinary action to Department Head(s). As used in this section, "disciplining authority" shall mean either a Department Head or the City Manager, whoever initiates the disciplinary action; "working day" shall mean any day of the month when the City offices are officially open for business.
- D. The procedures set forth in this section shall not preclude an employee from entering into a written agreement with the City to settle a pending disciplinary matter, and further shall not preclude an employee from waiving any of the notice provisions herein provided for, as part of that written settlement agreement.

#### **Section 12.02 Grounds for Discipline**

An employee may be reprimanded, suspended, denied a merit increase, demoted or dismissed for any of the following reasons:

- 1. Furnishing false information to secure employment.
- 2. Incompetence, which shall mean that the employee lacks adequate ability, knowledge, motivation, or fitness to satisfactorily perform the duties which are within the scope of employment.
- 3. Inefficiency in performance of work which results in performance lower than that which is typically expected of the position.

4. Neglect of duty.
5. Insubordination, which shall mean refusal or failure to follow a direct, lawful order which the employee is capable of following.
6. Nonobservance of work hours.
7. Excessive absenteeism, tardiness, or absence without authorized leave.
8. Violation of city personnel rules and regulations, administrative policies and procedures, department rules and regulations, safety rules, resolutions, ordinances or codes.
9. Damage to or waste of public property, equipment or supplies, or unauthorized possession or use of public property, supplies or equipment.
10. Any conduct related to employment which impairs, disrupts or causes discredit to the employee's department or the city, including but not limited to conduct which is or would be cause for discipline under any other provisions of this section.
11. Willful failure or refusal to properly perform official duty.
12. Gross negligence in the discharge of official duty.
13. Dishonesty involving employment.
14. Any act of moral turpitude which adversely reflects on the employee's ability or fitness to perform his/her duties.
15. Soliciting or taking for personnel use a fee, gift or other valuable thing in the course of the employee's work, or in connection with the contributing party's expectation or hope of receiving favorable or better treatment than that afforded other persons.
16. Disclosure of confidential information to an unauthorized source.
17. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment by the city.
18. Falsification of time sheets or any official city records.
19. Misuse of sick leave.
20. Consuming, possessing, or being under the influence of an alcoholic beverage, while on duty.



21. Unless legally authorized, using, consuming, injecting, possessing, being under the influence of, selling or offering for sale, while on duty, any drug which can or does impair, the employee's work performance, or any controlled substance as the latter term is defined in the California Health and Safety code.
22. Discourteous or disrespectful treatment of the public, other employees, or city officials.
23. Violation of city harassment policy.
24. Persistent failure or refusal to take, complete, or follow through with appropriate and reasonable treatment or corrective measures designed to remedy an employee's condition, such as alcohol or substance abuse, when said condition results in conduct which constitutes grounds for discipline under these rules.
25. Engaging in outside employment in violation of city policies or rules.
26. Engaging in non-City business during work hours, excluding employee free time such as lunch and breaks.

#### **Section 12.03 Types of Disciplinary Action**

As used in this section, "disciplinary action" shall mean any of the following and may be taken singly or in combination:

- A. Counseling or Oral Warning. A counseling or oral warning will not be placed in an employee's personnel file except as part of a regular or special performance evaluation report of the employee on which the employee is given an opportunity to respond. A counseling or oral warning or a performance evaluation report is not subject to the appeal process outlined below.
- B. Written Reprimand. A written reprimand shall be provided to an employee prior to being placed in the employee's personnel file. Such reprimands shall not be subject to the appeal process outlined below, but the employee shall have the right of rebuttal by providing a written statement which will be included in the personnel file along with the written reprimand.
- C. Imposition of special employment conditions. Such action shall be subject to the appeal process outlined below.
- D. Suspension with or without pay. Fringe benefits such as vacation and sick leave shall not accrue during a period of suspension without pay. However, health, dental and life insurance shall remain in effect during a period of suspension without pay. Such action shall be subject to the appeal process outlined below.
- E. Reduction in pay level not to exceed one (1) year. Such action shall be subject to the appeal process outlined below.

F. Demotion. Such action shall be subject to the appeal process outlined below.

G. Dismissal or Discharge. Such action shall be subject to the appeal process outlined below.

#### **Section 12.04 Notice of Intended Disciplinary Action**

A. In cases of proposed disciplinary action, except a counseling, oral warning, or written reprimand, the proposed disciplinary action shall be served on the employee personally or by mail. The written notice of intended disciplinary action which shall include:

1. The reasons for the disciplinary action, those facts alleged to be the basis for the intended action and copies of any documents or materials upon which the disciplinary action is based;
2. The specific action proposed to be taken, including any time period or other conditions associated with the discipline;
3. The proposed effective date of the intended disciplinary action; and
4. The right of the employee to respond to the proposed disciplinary action either in writing or orally, at the option of the employee. The employee shall be advised that he/she has ten (10) working days within which to file a written response or request, in writing, an informal predisciplinary conference before the disciplining authority or his/her designee.

B. A copy of the notice of intended disciplinary action shall be placed in the employee's personnel file.

#### **Section 12.05 Predisciplinary Conference**

Where an employee has requested an opportunity to respond orally, the disciplining authority or his/her designee shall cause an informal predisciplinary conference to be held to review the statement of charges and to provide the opportunity for the employee or his/her representative to answer the charges. The disciplining authority or his/her designee shall allow the parties to present any relevant evidence tending to prove or disprove the facts upon which the action is based or upon the nature and severity of the proposed disciplinary action. Failure of the employee to appear at the predisciplinary conference, if requested, shall forfeit all the employee's right to respond to the statement of charges.

#### **Section 12.06 Notice of Discipline or Rejection of Discipline**

A. If the employee does not respond or upon conclusion of the predisciplinary conference, the disciplining authority or his/her designee shall, by written notice to the employee and the supervisor, affirm, reduce or abandon the proposed disciplinary action.

- B. If the decision is to affirm or reduce the proposed disciplinary action, such action shall be served on the employee personally or by mail. The written notice of disciplinary action shall include:
1. The reasons for the disciplinary action, those facts alleged to be the basis for the disciplinary action and copies of any documents or materials upon which the disciplinary action is based;
  2. The specific action proposed to be taken, including any time period or other conditions associated with the discipline;
  3. The effective date of the disciplinary action; and
  4. The right of the employee to appeal the disciplinary action. The employee shall be advised that he/she has ten (10) working days within which to file a written appeal of the disciplinary action.
- C. A copy of the notice of disciplinary action shall be placed in the employee's personnel file.
- D. If the notice is to abandon all action, the notice of intended disciplinary action shall be removed from all personnel files.

#### **Section 12.07 Appeal of Disciplinary Action**

An employee who has been discharged, demoted, reduced in salary, been made subject to specific employment conditions, or suspended without pay has the right to appeal to the City Manager the disciplinary action by filing a written notice of appeal within ten (10) working days from the date of the notice of discipline. The appeal must state specifically the reason or reasons upon which it is based. Failure to file within the time allowed constitutes abandonment of appeal rights. The evidentiary appeal shall be heard by a hearing officer who will serve as the City Manager's designee.

#### **Section 12.08 Appeal**

- A. The Personnel Officer shall be responsible for obtaining the hearing officer from JAMS (Judicial Arbitration and Mediation Services of California). The Personnel Officer shall ask JAMS to randomly provide the name of one retired judge who shall be impartial and who shall conduct the hearing on behalf of the City Manager. The City shall pay for the services of the hearing officer.
- B. The Hearing Officer shall assume responsibility for scheduling and conducting the hearing in accordance with the provisions of Chapter 12. The hearing officer shall conduct the hearing and prepare a report that includes findings of fact and recommendation(s). The City Manager shall be bound by the findings of fact but reserves final authority on the recommendation(s) of the Hearing Officer. The decision of the City Manager shall be final unless appealed to the City Council.

- C. If the decision is to affirm or modify the disciplinary action, the decision shall be placed in the employee's personnel file. If the decision is to modify or reverse the disciplinary action, that action shall be implemented. If reversed, the notice of the intended disciplinary action and the notice of disciplinary action shall be removed from the employee's personnel file.

#### **Section 12.09 Evidentiary Appeal Hearing Procedure**

- A. The Hearing Officer shall provide the appellant and City with written notice of the date, time, and place of the hearing no less than ten (10) working days in advance of the scheduled hearing date. Any time lines contained in this section may be extended upon mutual agreement of the City and the appellant for good cause.
- B. The hearing shall be conducted in conformity with Sections 11512 through 11515, inclusive, of the Government Code. The hearing officer shall be deemed to be the administrative law judge in the proceeding.
- C. The hearing shall be closed to the public unless the appellant, prior to the commencement of the hearing, requests in writing that it be open to the public. The hearing shall be conducted in accordance with the provisions of Section 11513 of the Government Code which reads:
  - 1. Oral evidence shall be taken only on oath or affirmation.
  - 2. Each party shall these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him or her. If the appellant does not testify on appellant's own behalf, s/he may be called and examined as if under cross-examination.
  - 3. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.
- D. The appellant may be examined and may examine or cause any person to be examined under Section 776 of the Evidence Code. The appellant shall be allowed to appear personally at the hearing, and appellant shall have the right to legal counsel or lay representation of appellant's choice and sole expense at all times throughout the proceeding, and appellant shall be allowed to

produce such competent evidence in his/her own defense and in rebuttal to the charges as the appellant or appellant's/her representative may wish to offer.

- E. The hearing shall be recorded by a stenographic reporter. If any transcript is ordered by the appellant or the City, the party ordering the transcript shall bear the cost of the transcription. If both the appellant and the City order transcriptions, the cost of the transcription, along with the cost of the reporter, shall be borne equally by the City and the appellant.
- F. The Hearing Officer shall have the power to subpoena and require the attendance of witnesses, and the production of books, papers, and other evidence pertinent to the hearing, and to administer oaths to witnesses. In arriving at a recommendation, the hearing officer may consider any prior disciplinary actions taken against the appellant, or any prior proceedings under this section.
- G. Unless the circumstances were beyond the control of the appellant, failure of the appellant to appear at the hearing shall be deemed a withdrawal of the appeal and the action of the department head in the notice of disciplinary action shall be final without right of appeal to the City Council. The participation of the appellant's representative at the hearing shall constitute appearance of the appellant.
- H. The City Manager shall review the hearing officer's report including the findings of fact and recommendation(s) and within thirty (30) days from the hearing officer's report issue his or her written decision affirming, reversing, or modifying the discipline which shall be final unless appealed to the City Council.
- I. An employee can appeal the City Manager's decision to the City Council by filing the written notice of appeal with the City Clerk within ten (5) working days from the date of the mailing of the City Manager's decision.
- J. Within ten (10) days after receipt of the appeal, the City Clerk shall give notice of the appeal to each member of the City Council, the City Manager, and other persons named or affected by the appeal and shall schedule a hearing before the City Council.
- K. The hearing before the City Council shall be non-evidentiary in nature and shall be limited to oral arguments from both parties or their representatives. The City Council shall be bound by the findings of fact prepared by the hearing officer. Appellant and City shall each have 20 minutes of oral argument with an additional 5 minutes of rebuttal argument. The hearing before the City Council shall be closed to the public unless prior to the hearing the appellant requests in writing that the hearing be open to the public.
- L. The City Council shall deliberate in closed session and shall issue a decision which affirms, reverses, or modifies the discipline imposed by the City Manager.

- M. If the Council's decision is to affirm or modify the disciplinary action, the decision shall be placed in the employee's personnel file. If the decision is to modify or reverse the disciplinary action, that action shall be implemented. If reversed, the notice of the intended disciplinary action and the notice of disciplinary action shall be removed from the employee's personnel file.
- N. The decision of the City Council shall be final and subject to judicial review under Code of Civil Procedure 1094.5.

#### **Section 12.10 Serving of Notices**

Written notices shall be served either by direct personal service on the person affected, or by mail. Mailed notices to the City Manager or his/her designee, a Department Head, an appellant and/or his/her designee, or the City Council shall be effective upon recorded deposit with the United States Postal Service.

#### **Section 12.11 Summary Suspension**

Prior to any disciplinary proceedings under this section, the City Manager may summarily place any City employee on an immediate suspended status with or without pay. Such suspensions shall be made only in cases where the employee's continued active duty status might, in the sole opinion of the City Manager, constitute a hazard to the employee or others, tend to bring the City service into discredit, or prolong acts or omissions of improper employee conduct. If the disciplinary action or suspension is not subsequently ordered and/or affirmed, the employee shall be reinstated in status and restored all pay and fringe benefits lost during such summary suspension.

#### **Section 12.12 Right to Representation**

An employee subject to a meeting, an investigation that may result in disciplinary action, a predisciplinary conference or hearing has the right, upon request, to be represented by an employee representative or an attorney retained by the employee at the employee's expense. Any employee, other than those defined as management, mid-management and confidential employees shall be permitted to represent another City employee or group of City employees.

#### **Section 12.13 Records Purged**

An employee's personnel file shall be purged of all documents relating to ordered disciplinary actions, except dismissal, after three (3) years from the end of such action upon the written request of the employee or former employee against whom the action was taken.

(Updated 07-25-06 BCO)

RESOLUTION NO. 2013-197

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HOLLISTER  
ADOPTING A MEMORANDUM OF UNDERSTANDING BETWEEN THE  
CITY OF HOLLISTER AND  
THE CONFIDENTIAL MEMBER UNIT**

**WHEREAS**, representatives of the City of Hollister and Confidential Member Unit, an organization representing Hollister city employees, have met and conferred in good faith concerning subjects of bargaining, and

**WHEREAS**, understandings and agreements have been reached between the bargaining representatives, and

**WHEREAS**, both parties agree to enter into a Memorandum of Understanding for the term of July 1<sup>st</sup>, 2013 through June 30<sup>th</sup>, 2015.

**NOW THEREFORE BE IT RESOLVED**, that the City Council of the City of Hollister authorizes the execution of the Memorandum of Understanding between the City of Hollister and Confidential Member Unit for the term of a Retroactive Date of July 1<sup>st</sup>, 2013 through June 30<sup>th</sup>, 2015.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Hollister, California, on the 16th day of December, 2013 by the following vote:

**AYES:** Council Members Friend, Scattini, and Gomez.

**NOES:** Mayor Velazquez.

**ABSENT:** Council Member Valdivia.



Ignacio Velazquez, Mayor

**ATTEST:**

  
Geri Johnson, City Clerk

**APPROVED AS TO FORM:**

Wellington Law Offices

By:   
Deborah Mall, Interim City Attorney

DUPLICATE OF ORIGINAL  
ON FILE IN THE  
OFFICE OF THE CITY CLERK  
CITY OF HOLLISTER

**STAFF REPORT TRANSMITTAL FOR  
STUDY SESSION AND/OR CITY COUNCIL AGENDA ITEM**

**DATE:** December 5, 2013

**AGENDA ITEM:** A7, #7

**STUDY SESSION DATE:** N/A

**MEETING DATE:** December 16, 2013

**TITLE OF ITEM:** Consider Resolution Adopting A Memorandum Of Understanding Between the City of Hollister and the Confidential Member Unit.

**BRIEF DESCRIPTION:** This Resolution approves the Memorandum Of Understanding between the City of Hollister and the Confidential Member Unit bargaining unit for the term of July 1, 2013 through June 30, 2015.

**STAFF RECOMMENDATION:** Adopt Resolution No. 2013- 197, A Resolution of the City Council of the City of Hollister Adopting a Memorandum of Understanding Between the City of Hollister and the Confidential Member Unit.

**DEPARTMENT SUMMARY:** The current Memorandum of Understanding between the City of Hollister and Confidential Member Unit bargaining unit expired on June 30, 2013. Representatives have negotiated in good faith for approximately 3 months and have reached agreement for a successor Memorandum Of Understanding with a two (2.0) year term. The implementation of this agreement is effective December 16, 2013.

**FINANCIAL IMPACT:** The projected savings for the City (due to the sharing of medical costs with the designated members) for the negotiated salaries and benefits for all designated members of this unit is projected at \$540 (\$290 for the General Fund and \$250 for all Other Funds) for the remainder of Fiscal Year 2013-2014, \$12,750 (\$6,750 for the General Fund and \$6,000 for all Other Funds) for Fiscal Year 2014-2015, and future medical savings of approximately \$18,000 in future fiscal years.

**STAFF RECOMMENDATION:** Staff recommends City Council approval.

**DEPARTMENT:** Administrative Services

**CONTACT PERSON:** Brett I. Miller

**DEPARTMENT HEAD:** Same

**PHONE NUMBER:** (831) 636-4300x27

**THIS REPORT WAS REVIEWED BY THE CITY MANAGER AND CONCURS WITH THE  
STAFF RECOMMENDATION**



William B. Avera, Interim City Manager